

405 KAR 10:030. General requirements for liability insurance.

RELATES TO: KRS 350.020, 350.060, 350.064, 350.100, 350.465

STATUTORY AUTHORITY: KRS 350.020, 350.028, 350.060, 350.064, 350.151, 350.465

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 350 requires the cabinet to specify types, terms, and conditions for liability insurance for surface coal mining operations. This administrative regulation specifies the terms and conditions of liability insurance for surface coal mining operations.

Section 1. Requirement to File a Certificate of Liability Insurance. Each applicant for a permit shall submit to the cabinet, as part of the permit application, a certificate issued by an insurance company authorized to do business in Kentucky. The amount, duration, form, conditions, and terms of this insurance shall comply with Section 2 of this administrative regulation.

Section 2. Terms and Conditions for Liability Insurance. (1) The applicant shall submit, as a part of the permit application upon bond submission, a certificate issued by an insurance company authorized to do business in Kentucky certifying that the applicant has a public liability insurance policy in force for the surface coal mining and reclamation operation for which the permit is sought.

(a) The certification shall be on Certificate of Liability Insurance, Form SME-29.

(b) The policy shall provide for personal injury and property damage protection in an amount adequate to compensate for all personal injury and property damage resulting from surface coal mining and reclamation operations, including damage caused by the use of explosives and damage to water wells.

(c) Minimum insurance coverage for bodily injury and property damage shall be \$300,000 for each occurrence and \$500,000 aggregate.

(2) The policy shall be maintained in full force during the term of the permit or renewal thereof, and during the liability period necessary to complete all reclamation operations pursuant to 405 KAR Chapters 7 through 24, until full bond release has been granted.

(3) The policy shall include a clause requiring that the insurer notify the cabinet if substantive changes are made in the policy, including termination or failure to renew. This notice shall be made on the Notice of Cancellation, Nonrenewal or Change of Liability Insurance.

(4) In the event the insurer becomes unable to fulfill its obligations pursuant to the policy, notice shall be given immediately to the permittee and the cabinet.

(5) Upon the incapacity of an insurer by reason of bankruptcy, insolvency, or suspension or revocation of its license or certificate of authority, the permittee shall be deemed to be without insurance coverage and shall promptly notify the cabinet.

(a) Nothing in this subsection shall relieve the insurer of liability on its policy.

(b) The cabinet shall issue a notice to the permittee specifying a reasonable period to replace such coverage, not to exceed ninety (90) days.

(c) If an adequate insurance coverage is not posted by the end of the period allowed, the permittee shall cease coal extraction and coal processing operations and shall comply with the provisions of 405 KAR 16:010, Section 6, or 405 KAR 18:010, Section 4, and shall immediately begin to conduct reclamation operations in accordance with the reclamation plan.

(d) Coal extraction and coal processing operations shall not resume until the cabinet has determined that an acceptable insurance coverage has been posted.

(e) If an acceptable insurance coverage has not been posted by the end of the period allowed, the cabinet may suspend the permit until acceptable insurance coverage is posted.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Certificate of Liability Insurance, Form SME-29", March 2018; and

(b) "Notice of Cancellation, Nonrenewal or Change of Liability Insurance, Form SME-30", March 2018.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department for Natural Resources, 300 Sower Boulevard, Frankfort, KY 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (8 Ky.R. 1518; eff. 1-6-1983; 12 Ky.R. 579; eff. 12-10-1985; 15 Ky.R. 443; 1070; eff. 12-13-1988; 38 Ky.R. 2004; 39 Ky.R. 471; eff. 9-6-2012; TAm eff. 7-6-2016; TAm eff. 3-28-2018; Crt eff. 7-3-2018.)